

## **Exhibit “8”**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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**In Re:**

**EPIC RESORTS – PALM SPRINGS  
MARQUIS VILLAS, L.L.C.,**

**Debtor.**

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**THE BANK OF NEW YORK, AS  
SUCCESSOR INDENTURE  
TRUSTEE,**

**Plaintiff,**

**v.**

**EPIC RESORTS – PALM SPRINGS  
MARQUIS VILLAS, L.L.C.,**

**and**

**USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, L.L.C.,**

**Defendants.**

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**Chapter 11**

**Jointly Administered Under  
Case No.: 01-02458-MFW**

**Adversary Proceeding  
No. 02-03021-MFW**

**APPENDIX TO THE BANK OF NEW YORK'S OPPOSITION  
TO USA CAPITAL'S MOTION FOR SUMMARY JUDGMENT  
AND MEMORANDUM IN SUPPORT OF THE BANK OF  
NEW YORK'S CROSS MOTION FOR SUMMARY JUDGMENT**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In Re:**

**EPIC RESORTS – PALM SPRINGS  
MARQUIS VILLAS, L.L.C.,**

**Debtor.**

**THE BANK OF NEW YORK, AS  
SUCCESSOR INDENTURE  
TRUSTEE,**

**Plaintiff,**

**v.**

**EPIC RESORTS – PALM SPRINGS  
MARQUIS VILLAS, L.L.C.,**

**and**

**USA CAPITAL DIVERSIFIED  
TRUST DEED FUND, L.L.C.,**

**Defendants.**

**Chapter 11**

**Jointly Administered Under  
Case No.: 01-02458-MFW**

**Adversary Proceeding  
No. 02-03021-MFW**

**DECLARATION OF TOM A. HOWLEY, ESQ.**

I, Tom A. Howley, hereby declare the following under penalty of perjury under the laws of the United States, and to the best of my knowledge, information and belief:

1. I am over the age of 21 and make this Declaration based on personal knowledge.
2. I am a member in good standing of the State Bar of Indiana, State Bar of Kentucky and State Bar of Texas.
3. I am a senior associate with the law firm of Haynes and Boone, LLP, and I serve in that capacity as counsel to The Bank of New York, solely in its capacity as indenture trustee ("BNY"), in the above-referenced Adversary Proceeding.

4. All of the documents attached hereto in this Appendix are incorporated by reference into (i) The Bank of New York's Opposition to USA Capital's Motion for Summary Judgment and Memorandum in Support of The Bank of New York's Cross-Motion for Summary Judgment (the "BNY Memorandum") and (ii) The Bank of New York's Motion to Strike – each filed simultaneously herewith. All capitalized terms used in this Declaration shall have the meaning set forth in the BNY Memorandum.

5. All of the documents attached to this Appendix are true and correct copies of the following documents:

**Appendix Tab #1:** Declaration of John Guiliano.

**Appendix Tab #2:** Index of Closing Documents relating to the Indenture. This document was provided to BNY by Klett, Rooney, Lieber & Schorling, P.C. ("Klett Rooney"). Klett Rooney received this document from the law firm of Jones, Day, Reavis & Pogue ("Jones Day") pursuant to a subpoena. This document is bates-stamped JD002943 – JD002955.

**Appendix Tab #3:** Purchase Agreement dated June 30, 1998. This document was provided to BNY by Klett Rooney. Klett Rooney received this document from Jones Day pursuant to a subpoena. This document is bates-stamped JD003055 – JD003106.

**Appendix Tab #4:** Offering Memorandum dated June 30, 1998. This document was provided to BNY by the law firm of White and Case in the third quarter of 2001. This document is bates-stamped WHI 139 0001 – WHI 139 0166.

**Appendix Tab #5:** Flatley letter dated March 28, 2000 to Salvatore Reale. This document was provided to BNY by USA Capital. It is bates-stamped USA 003906 – USA 003908.

**Appendix Tab #6:** Due-Diligence Checklist Prepared by USA Capital. This document was provided to BNY by USA Capital. It is bates-stamped USA 003917.

**Appendix Tab #7:** Deposition Transcript of Tom Hantges.

**Appendix Tab #8:** Burk Letter to Rondeau dated August 7, 2000. This document was provided to BNY by USA Capital. It is bates-stamped USA 04764 – USA 04766.

**Appendix Tab #9:** USA Capital Letter to Title Co. dated June 29, 2000. This document was provided to BNY by USA Capital. It is bates-stamped USA 04243 – USA 04245.

**Appendix Tab #10:** USA Capital Letter to Title Co. dated July 31, 2000. This document was provided to BNY by USA Capital. It is bates-stamped USA 04251 – USA 4252.

**Appendix Tab #11:** Flatley Letter to USA Capital dated June 29, 2000. This document was provided to BNY by USA Capital. It is bates-stamped USA 04246.

**Appendix Tab #12:** Transcript of Deposition of Joseph Milanowski.

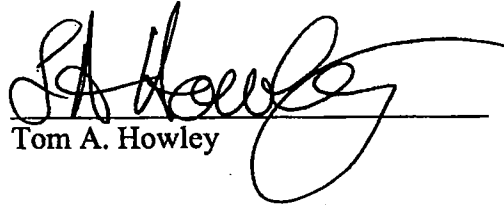
**Appendix Tab #13:** 10-Q Filing of Epic Resorts, LLC. This public record was obtained from the SEC.

**Appendix Tab #14:** 10-K Filing of Epic Resorts, LLC. This public record was obtained from the SEC.

**Appendix Tab #15:** 10-Q Filing of Epic Resorts, LLC. This public record was obtained from the SEC.

I declare under penalty of perjury that the foregoing statements are true and correct pursuant to 28 U.S.C. § 1746.

Dated: August 5, 2002.

  
Tom A. Howley